

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00164

SHAWN K. BEVER

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant to continue the trial of this matter and pretrial deadlines. (ECF No. 41). In support of defendant's motion and the need for a continuance, counsel points to the fact that defendant is detained in Kentucky and the events underlying the indictment occurred in Nicholas County, West Virginia. Therefore, witness interviews, investigative tasks, and attorney-client visits all require a minimum of a three-hour round trip for counsel. In addition, counsel states that he was ill for most of December and, therefore, additional time is necessary to prepare this case. Counsel for the government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to

grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. A pretrial motions hearing is hereby scheduled for March 7, 2023, at 2:30 p.m., in Charleston.
2. Pretrial motions are to be filed no later than February 23, 2023.
3. Trial of this action is continued until April 18, 2023, at 9:30 a.m., in Charleston.
4. Jury instructions and voir dire are due no later than April 11, 2023.
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 20th day of January, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge